

CITY OF ALAMEDA

Memorandum

To: Honorable Mayor and
Members of the City Council

From: Lara Weisiger
City Clerk

Date: June 6, 2012

Re: Adopt a Resolution Calling an Election in the City of Alameda on November 6, 2012, for the Purpose of Submitting to the Electors an Initiative Entitled "Charter Amendment Changing Requirements for When a Citywide Ballot Measure is Needed to Authorize Certain Sales or Disposals of City Parks"

BACKGROUND

A Notice of Intent to Circulate Petition to amend the City Charter was filed in the Office of the City Clerk on February 2, 2012. The Notice of Intent and text of the measure are attached (Exhibit 1). The City Attorney's Ballot Title and Summary (Exhibit 2) was transmitted to the initiative proponents on February 16, 2012. On April 5, 2012, the petition was filed with the City Clerk; it was then transmitted to the Registrar of Voters to examine signatures. Based on a random sample examination pursuant to Elections Code Section 9266, the Registrar of Voters determined that the initiative petition contained sufficient valid signatures to qualify for placement on the ballot. The Certificate of Sufficiency is attached (Exhibit 3).

DISCUSSION

Pursuant to Elections Code Sections 1415 and 9255, the City Council is required to submit the initiative to the voters. The City Council must set the election date no sooner than 88 days from the date of adoption of the resolution calling the election. At the time of filing the petition, the Proponents submitted the attached letter (Exhibit 4), which points out the petition was filed in sufficient time for the measure to be placed on the November 6, 2012 ballot in conjunction with the City's general municipal election.

State election law requires that the ballot pamphlet include a ballot question of no more than 75 words, including the title. The City Attorney previously provided a title, which cannot be changed. The City Council approves the exact ballot question wording. The proposed question is:

Shall the Charter of the City of Alameda be amended by amending Section 22-12 to eliminate language that allows the City Council to sell or dispose of public parks or any portion thereof if a new public park is designated, which means the sale or disposal of public parks must be approved by the electors?

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The City Attorney's Summary (Exhibit 2) serves as the Impartial Analysis.

State election law also allows the City Council to determine its interest in authoring an argument regarding the measure for printing in the sample ballot. Arguments of no more than 300 words, signed by no more than five registered voters are filed with the City Clerk as the Elections Official. Ballot arguments for and against the Charter amendment are due in the City Clerk's Office by Wednesday, June 20, 2012. Rebuttal arguments, which cannot exceed 250 words, are due in the City Clerk's Office by Thursday, June 28, 2012.

The City Council has options regarding the preparation of a ballot argument. The City Council may: 1) draft an argument as a whole body in open session; 2) authorize up to two Councilmembers to meet as a subcommittee of the City Council to draft an argument and have the entire Council sign; 3) authorize up to two Councilmembers to draft an argument and have a combination of Councilmembers and other eligible voters sign; or 4) authorize up to two Councilmembers to draft an argument and have up to five eligible voters sign.

FINANCIAL IMPACT

Since the City will be conducting a General Municipal Election on November 6, 2012, the cost of placing the measure on the ballot is approximately \$4,000 for translation, typesetting, and printing the measure.

MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

The Initiative strikes language in City Charter Section 22-12.

ENVIRONMENTAL REVIEW

This action is not a project and is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15378(b)(3) of CEQA Guidelines, as it concerns the submittal of a proposal to the Voters of the City.

RECOMMENDATION

Adopt a resolution calling an Election in the City of Alameda on November 6, 2012, for the purpose of submitting to the electors an Initiative entitled "Charter Amendment Changing Requirements for When a Citywide Ballot Measure is Needed to Authorize Certain Sales or Disposals of City Parks."

Honorable Mayor and
Members of the City Council

June 6, 2012
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Respectfully submitted,

Handwritten signature of Lara Weisiger in cursive script, with the number '16' written below the signature.

Lara Weisiger
City Clerk

Financial impact section reviewed,

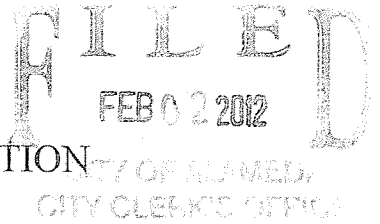
Handwritten signature of Fred Marsh in cursive script.

for Fred Marsh
Controller

Exhibits:

1. Notice of Intent to Circulate Petition and Text of Measure
2. Ballot Title and Summary
3. Certificate of Sufficiency
4. Letter from Proponents filed April 5, 2012

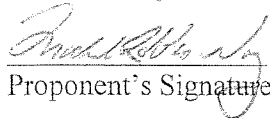
cc: Initiative Proponents



NOTICE OF INTENT TO CIRCULATE PETITION

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the City of Alameda for the purpose of amending the City Charter of the City of Alameda. A statement of the reasons of the proposed action as contemplated in the petition is as follows: In order to prevent reductions in the size, number, or quality of the City's parks and to protect the City's parks against being sold or swapped to developers or others, or otherwise alienated, without voter approval, and to ensure adequate City parks for future generations, it is the intent and effect of this Charter amendment to amend Article XXII, Section 22-12 of the City Charter of the City of Alameda to require that the City of Alameda's parks, including the Alameda Chuck Corica Golf Complex, not be sold, swapped, or otherwise alienated except pursuant to the affirmative votes of the majority of electors voting on such a proposition.

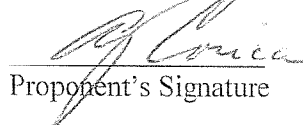
Michael Robles-Wong
Proponent's Name


Proponent's Signature

155 Diapian Bay

Alameda, CA 94502
Proponent's Address

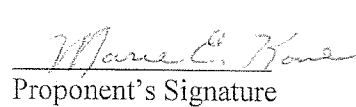
Anthony J. Corica
Proponent's Name


Proponent's Signature

925 Del Mar Avenue

Alameda, CA 94501
Proponent's Address

Marie Kane
Proponent's Name

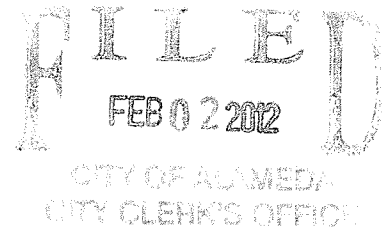

Proponent's Signature

92 Steuben Bay

Alameda, CA 94502
Proponent's Address

A CHARTER AMENDMENT INITIATIVE TO PROTECT ALAMEDA CITY
PARKS FROM BEING SOLD, SWAPPED, OR OTHERWISE ALIENATED
EXCEPT PURSUANT TO THE AFFIRMATIVE VOTES OF THE MAJORITY
OF THE ELECTORS

Section 1. TITLE



This Initiative shall be known and referred to as the “Protect Our Alameda Parks Initiative.”

Section 2. FINDINGS

1. The City’s public parks are a valuable community asset, contributing to the beauty, livability, health, fitness, and enjoyment of all of its citizens and residents.
2. The City’s electors previously have expressed their strong support for the preservation of the City’s public parks by overwhelmingly voting, in June of 1992, for Measure C, which prohibits the sale of the City’s public parks without approval by the majority of the electors, except under certain listed exceptions.

3. The City Manager has proposed to the City Council selling a portion of the Alameda Golf Complex in exchange for land in the Harbor Bay Business Park without seeking a vote of the electors on such a proposal.
4. Neither the City Manager nor more than one member of the City Council has acknowledged the requirement of the electors to approve or disapprove such a proposal pursuant to Article XXII, Section 22-12 of the City Charter.
5. In order to protect the City's public parks from such proposals and litigation over the interpretation and enforcement of Article XXII, Section 22-12 of the City Charter, it is necessary to remove the "loophole" exception to the requirement that all sales of the City's public parks require the approval of the majority of the electors.

Section 3. AMENDMENT OF ARTICLE XXII, SECTION 22-12 OF THE
CITY CHARTER OF THE CITY OF ALAMEDA

Article XXII, Section 22-12 of the City Charter of the City of Alameda is
hereby amended as follows:

Part (c) of the first sentence, and all of the second sentence, of Article XXII,
Section 22-12 of the City Charter of the City of Alameda are hereby deleted in
their entirety, such that Article XXII, Section 22-12 of the City Charter of the City
of Alameda shall read as follows:

“Sec. 22-12. Notwithstanding any other provisions of this Charter to
the contrary, the public parks of the City shall not be sold or
otherwise alienated except pursuant to the affirmative votes of the
majority of the electors voting on such a proposition; except that the
City Council may (a) lease or grant concessions or privileges in
public parks or any portion thereof or building or structure situated
therein, or (b) grant permits, licenses or easements for street, utility or
any other purposes in public parks or any portion thereof or building

or structure situated therein or (c) sell or dispose of public parks or any portion thereof if, after a public hearing or hearings in each case, the City Council determines that another new public park has been or will be designated by the City Council for public park purposes and opened to the public for public park purposes. The City Council shall determine that said "new public park" is of comparable size and utility and serves the same service area with substantially the same amenities and improvements. As used herein "public parks" means any and all lands of the City which have been or will be designated by City Council for public park purposes and/or recreational uses and opened to the public for public park purposes and/or recreational uses. "Public parks" also includes the Alameda Golf Complex."

Section 4. EFFECTIVE DATE

This Charter Amendment shall become effective upon passage.

Section 5. CHARTER AMENDMENT LANGUAGE SUPERSEDES EXISTING CHARTER LANGUAGE

This Charter Amendment language supersedes any existing Charter language to the extent that such existing Charter language it is in conflict with this Amendment.

Section 6. SEVERABILITY

It is the intent of the People that the provisions of this Charter Amendment are severable and that if any section or provision of this Amendment or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Charter Amendment which can be given effect without the invalid provision or application.

Section 7. LIBERAL CONSTRUCTION

The provisions of this Charter Amendment shall be liberally construed to effectuate its purposes.

Section 8. CONFLICTING BALLOT MEASURES

In the event that this measure and another measure or measures relating to the City's public parks appear on the same city-wide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure.

In the event that this measure receives a greater number of affirmative votes than the other measure or measures, the provisions of this measure shall prevail over conflicting provisions in any other measure, and the conflicting provisions of the other measure or measures shall be null and void.

TITLE:

Charter Amendment Changing Requirements for When a Citywide Ballot Measure is Needed to Authorize Certain Sales or Disposals of City Parks

SUMMARY:

The City of Alameda has a voter-approved City Charter that requires voter approval for any sale or alienation of any public parks or portion of public parks within the City. There are three exceptions to this requirement, which authorize the City Council, without voter approval, to do any of the following: (1) lease or grant concessions or privileges in public parks; (2) grant permits, licenses or easements for street, utility or other purposes in public parks; or (3) sell or dispose of all or any portion of a public park as long as the City Council determines, after a public hearing or hearings, that the park will be replaced by another park of comparable size and utility which serves the same area with substantially the same amenities and improvements. Passage of this proposed initiative would eliminate the third exception.

For purposes of this Charter section, the term "public parks" means any and all lands of the City which have been or will be designated by the City Council for public park purposes and/or recreational uses and opened to the public, including the Alameda Golf Complex.

If this proposal becomes effective, the City Council will continue to be able, without voter approval, to lease park property for any length of time, or give rights to use park property for recreational activities and provision of utilities. The City Council would no longer be able to sell or dispose of park land, without voter approval, even when the park land would be replaced with comparable parkland elsewhere in the City.

REGISTRAR OF VOTERS CERTIFICATE TO PETITION

I, **Dave Macdonald**, Registrar of Voters for the County of Alameda, State of California, hereby certify that: an Initiative Petition Entitled: Charter Amendment Changing Requirements for When a Citywide Ballot Measure is needed to Authorize Certain Sales or Disposals of City Parks Initiative, was filed with the Alameda City Clerk within the statutory time limit and forwarded to this office for verification on April 6, 2012; and

The petition contained 9,327 unverified signatures; and

Pursuant to California Elections Code section 9215, in order to be sufficient, the petition must have been signed by 6,190 qualified registered voters of the City of Alameda, that number being equal to fifteen percent of the total registered voters of the City at the last Report of Registration to the Secretary of State; and

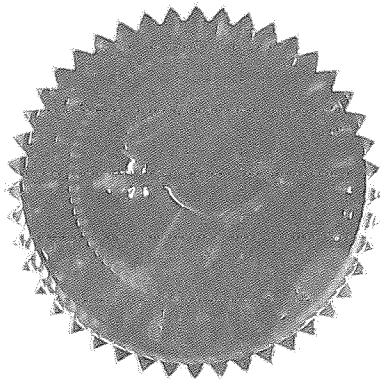
I have examined, or caused to be examined, signatures on the petition pursuant to California Elections Code sections 9211 and 9115; and

Have determined that the petition contained 489 valid signatures of qualified registered voters in the City of Alameda based on the random sample examination set forth in section 9115 and the formula prescribed by the California Secretary of State; and

That this number represents 147% of the total number of signatures needed to qualify the initiative; therefore

The petition is found to be sufficient to require the City Council of the City of Alameda to take the appropriate action specified in the California Elections Code.

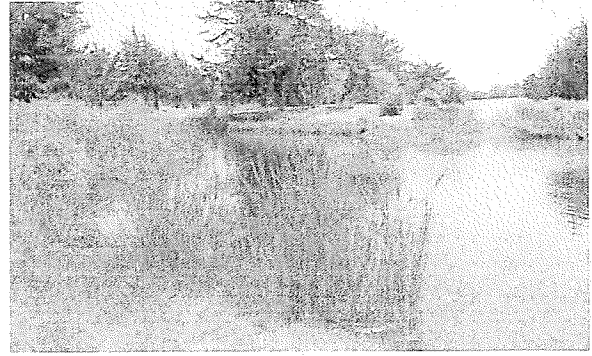
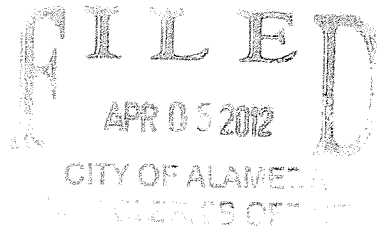
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal this 9th day of May, 2012.



Dave Macdonald
Registrar of Voters
County of Alameda
State of California

City Council
Exhibit 3 to
Agenda Item #5-K
06-06-12

PROTECT
OUR ALAMEDA
PARKS



April 3, 2012

Dear Ms. Weisiger,

Attached please find the signed petition sections for the "Protect Our Alameda Parks Initiative" (collectively referred to herein as the "Petition").

By presenting the Petition to you on Thursday, April 5, 2012, your office and the County Registrar's office have sufficient time to conduct and complete the examination of signatures so that the measure will qualify for the November 6, 2012 election in the City of Alameda.

Please date stamp a copy of this letter for our files, and if we may provide additional information, please contact us.

Thank you for your assistance.

Sincerely,

Michael Robles-Wong

Proponent

Anthony J. Corica

Proponent

Marie Kane


Proponent

Enclosures

cc: Bradley W. Hertz, Esq.
The Sutton Law Firm

City Council
Exhibit 4 to
Agenda Item #5-K
06-06-12

Approved as to Form


Janet C. Kern
City Attorney

CITY OF ALAMEDA RESOLUTION NO. _____

CALLING AN ELECTION IN THE CITY OF ALAMEDA ON NOVEMBER 6, 2012, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORS AN INITIATIVE ENTITLED "CHARTER AMENDMENT CHANGING THE REQUIREMENTS FOR WHEN A CITYWIDE BALLOT MEASURE IS NEEDED TO AUTHORIZE CERTAIN SALES OR DISPOSALS OF CITY PARKS"

WHEREAS, pursuant to authority provided by Sections 1415, 9255(a)(2) and Section 12001 of the Elections Code an initiative petition has been filed with the City Council of the City of Alameda, signed by more than 15% of the voters of the City, to submit to the voters a proposed Charter amendment entitled, "Charter Amendment Changing Requirements for When a Citywide Ballot Measure is Needed to Authorize Certain Sales or Disposals of City Parks;"

WHEREAS, the Registrar of Voters examined the records of registration and ascertained that the petition is signed by the requisite number of voters, and has so certified; and

WHEREAS, the City Council is authorized and directed by statute to submit the proposed Charter amendment to the voters;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ALAMEDA THAT:

Section 1. Pursuant to the requirements of the Charter of the City of Alameda and general law, there is called and ordered to be held in the City of Alameda, California, on Tuesday, November 6, 2012, a General Municipal Election for the purpose of submitting the following measure:

Charter Amendment Changing Requirements for When a Citywide Ballot Measure is Needed to Authorize Certain Sales or Disposals of City Parks

Shall the Charter of the City of Alameda be amended by amending Section 22-12 to eliminate language that allows the City Council to sell or dispose of public parks or any portion thereof if a new public park is designated, which means the sale or disposal of public parks must be approved by the electors?	YES
	NO

Section 2. The text of the Charter amendment submitted to the voters is attached as Exhibit A.

Section 3. The ballots to be used at the election shall be in form and content as required by law.

Section 4. The City Clerk is hereby directed to cause notice of the measure to be published once in the official newspaper of the City of Alameda, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

Section 5. The City Council adopts the provisions of section 9285(a) of the Elections Code to permit rebuttal arguments, if arguments have been filed in favor of or against the measure.

Section 6. Notice of the time and place of the election on this proposed measure is hereby given, and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

Section 7. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 8. The City Clerk is hereby authorized, instructed and directed to procure and furnish (or cause to be procured and furnished) any and all official ballots, notices, printed matter and all other supplies, equipment and paraphernalia that may be necessary to properly and lawfully conduct the election.

Section 9. The polls for the special election shall be open at 7:00 AM on the day of said election and shall remain open continuously from said time until 8:00 PM of the same day when the polls shall be closed, pursuant to Elections Code Section 10242, except as provided in Section 14401 of the Elections Code.

Section 10. The City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

Section 11. This action is not a project and is exempt from the California Environmental Quality Act (CEQA) pursuant to section 15378(b)(3) of CEQA Guidelines, as it concerns the submittal of a proposal to the voters of the City.

Section 12. The City Clerk is hereby directed to file a certified copy of this resolution with the Alameda County Clerk of the Board of Supervisors and the County Registrar of Voters in sufficient time so that the measure may be included in the November 6, 2012 Election ballot.

* * * * *

EXHIBIT A

A CHARTER AMENDMENT INITIATIVE TO PROTECT ALAMEDA CITY PARKS FROM BEING SOLD, SWAPPED, OR OTHERWISE ALIENATED EXCEPT PURSUANT TO THE AFFIRMATIVE VOTES OF THE MAJORITY OF THE ELECTORS

Section 1. TITLE

This Initiative shall be known and referred to as the "Protect Our Alameda Parks Initiative."

Section 2. FINDINGS

1. The City's public parks are a valuable community asset, contributing to the beauty, livability, health, fitness, and enjoyment of all of its citizens and residents.

2. The City's electors previously have expressed their strong support for the preservation of the City's public parks by overwhelmingly voting, in June of 1992, for Measure C, which prohibits the sale of the City's public parks without approval by the majority of the electors, except under certain listed exceptions.

3. The City Manager has proposed to the City Council selling a portion of the Alameda Golf Complex in exchange for land in the Harbor Bay Business Park without seeking a vote of the electors on such a proposal.

4. Neither the City Manager nor more than one member of the City Council has acknowledged the requirement of the electors to approve or disapprove such a proposal pursuant to Article XXII, Section 22-12 of the City Charter.

5. In order to protect the City's public parks from such proposals and litigation over the interpretation and enforcement of Article XXII, Section 22-12 of the City Charter, it is necessary to remove the "loophole" exception to the requirement that all sales of the City's public parks require the approval of the majority of the electors.

Section 3. AMENDMENT OF ARTICLE XXII, SECTION 22-12 OF THE CITY CHARTER OF THE CITY OF ALAMEDA

Article XXII, Section 22-12 of the City Charter of the City of Alameda is hereby amended as follows:

Part (c) of the first sentence, and all of the second sentence, of Article XXII, Section 22-12 of the City Charter of the City of Alameda are hereby deleted in their

entirety, such that Article XXII, Section 22-12 of the City Charter of the City of Alameda shall read as follows:

"Sec. 22-12. Notwithstanding any other provisions of this Charter to the contrary, the public parks of the City shall not be sold or otherwise alienated except pursuant to the affirmative votes of the majority of the electors voting on such a proposition; except that the City Council may (a) lease or grant concessions or privileges in public parks or any portion thereof or building or structure situated therein, or (b) grant permits, licenses or easements for street, utility or any other purposes in public parks or any portion thereof or building or structure situated therein or ~~(c) sell or dispose of public parks or any portion thereof if, after a public hearing or hearings in each case, the City Council determines that another new public park has been or will be designated by the City Council for public park purposes and opened to the public for public park purposes. The City Council shall determine that said "new public park" is of comparable size and utility and serves the same service area with substantially the same amenities and improvements. As used herein "public parks" means any and all lands of the City which have been or will be designated by City Council for public park purposes and/or recreational uses and opened to the public for public park purposes and/or recreational uses. "Public parks" also includes the Alameda Golf Complex."~~

Section 4. EFFECTIVE DATE

This Charter Amendment shall become effective upon passage.

Section 5. CHARTER AMENDMENT LANGUAGE SUPERSEDES EXISTING CHARTER LANGUAGE

This Charter Amendment language supersedes any existing Charter language to the extent that such existing Charter language it is in conflict with this Amendment.

Section 6. SEVERABILITY

It is the intent of the People that the provisions of this Charter Amendment are severable and that if any section or provision of this Amendment or the application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other provision or application of this Charter Amendment which can be given effect without the invalid provision or application.

Section 7. LIBERAL CONSTRUCTION

The provisions of this Charter Amendment shall be liberally construed to effectuate its purposes.

Section 8. CONFLICTING BALLOT MEASURES

In the event that this measure and another measure or measures relating to the City's public parks appear on the same city-wide election ballot, the provisions of the other measure or measures shall be deemed to be in conflict with this measure. In the event that this measure receives a greater number of affirmative votes than the other measure or measures, the provisions of this measure shall prevail over conflicting provisions in any other measure, and the conflicting provisions of the other measure or measures shall be null and void.

I, the undersigned, hereby certify that the foregoing Resolution was duly and regularly adopted and passed by the Council of the City of Alameda in regular meeting of the City Council assembled on the 6th day of June, 2012, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of the said City this ____ day of June, 2012.

Lara Weisiger, City Clerk
City of Alameda